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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,106	06/30/2003	Christopher P. Foley	86769-0010	1052
<div>24633      7590      05/02/2007</div> <div>HOGAN &amp; HARTSON LLP IP GROUP, COLUMBIA SQUARE 555 THIRTEENTH STREET, N.W. WASHINGTON, DC 20004</div>				
			<div>EXAMINER</div> <div>OMOTOSHO, EMMANUEL</div>	
			<div>ART UNIT</div> <div>3714</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>05/02/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/608,106	Applicant(s) FOLEY ET AL.	
	Examiner Emmanuel Omotosho	Art Unit 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This is in response to amendments file 9/26/2006 in which claims 1 and 3-30 were amended and claim 2 was canceled. Claims 1 and 3-30 are pending.

### ***Allowable Subject Matter***

1. The indicated allowability of claims 2-30 is withdrawn in view of the newly discovered reference(s) to Papadopoulos (US 6,099,320) in view of Gupta et al. ("Gupta") US 2005/0192954 A1. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Papadopoulos (US 6,099,320) in view of Gupta et al. ("Gupta") US 2005/0192954 A1 and in further view of Griffor et al. ("Griffor") US 2002/0173999 A1, Cozens et al. ("Cozens") US 2002/0064766 A1 and Seetharaman et al. ("Seetharaman") US 2007/0061183 A1.**

2. [Claims 1,15,18-21]: Regarding Claim 1, Papadopoulos teaches a content development platform, said content development platform containing electronic tools for receiving input relating to the compiling of instructional materials (i.e., audio, video, and textual content) (Col 2 lines 21-35) and generating electronic learning content (i.e., computer-based training modules). Papadopoulos teaches an electronic delivery platform (i.e., Virtual Training Center), said electronic delivery platform containing electronic tools for delivering instruction to the students, said delivered instruction incorporating said electronic learning content. See Col.2 lines 38-47, Col.8: 1-13. Papadopoulos teaches a learning administration platform, said learning administration platform containing electronic tools (e.g., VIP directory) for storing said electronic learning content, storing registrar information regarding said students and said instruction (e.g., courses that the student has completed), and storing catalog information (e.g., curriculum) regarding said learning content. See Col.5 lines 35-50, Col.8: 1-6. Papadopoulos teaches a resources synchronization platform (i.e., Virtual Training Center), said resources synchronization platform including a resources synchronization tool adapted to obtain and store data regarding compilation and generation functions as performed by said content development platform, data regarding delivery functions as performed by said delivery platform, said registrar information and said catalog information from said learning administration platform; wherein said resources synchronization tool provides an interface for accessing and processing said stored compilation data, generation data, delivery data, registrar information and catalog information upon request. See Col.5 lines 35-50, Col.8: 1-6.

Papadopoulos does not expressly teach said synchronization tool processing said accessible data and information into resource utilization reports on demand such that said reports may be utilized to make resource allocation decisions across said learning services providing entity.

However, generating resource utilization reports from accessible data and information on demand is old and well known in the art.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into Papadopoulos' invention in order to make efficient use of resources.

3. In regards to claim 8, Papadopoulos teaches organizing allocation and scheduling information into sortable scheduling and usage reports (Col. 7 lines 34-40).
4. In regards to claim 9, Papadopoulos teaches reports may support learning solution processes selected from the group consisting of forecasting budgeting, performance planning, performance reporting, account management, production management, media configuration, delivery coordination, and needs analysis (Col 7 lines 60-67).
5. In regards to claims 10,17,26, Papadopoulos teaches the learning solution is able to be outsourced from a learner organization (School/business entity) to said learning services providing entity (Administrators) according to a learning services agreement (the curriculum); said agreement detailing minimum service levels that must be met by said providing entity (inherent in the curriculum) (Col.7 lines 28-67)

Papadopoulos does not expressly teach electronic delivery platform is adapted to record performance metrics during delivery of said instruction, during compilation of instructional materials and during generation of electronic learning content and wherein said performance metrics measure aspects of said compilation, said generation, and said delivery.

However in a similar network system learning solution invention, Gupta teaches a delivery system capable of recording performance metrics (Par. 0018), the use of a database to store such information (Fig 3, Fig 4 Par. 0129), presenting the information to the teacher/supervisor (Par. 0129) wherein Gupta teaches a form of presentation to be of a report format (Par. 0013) (Claims 1-4,15-16,18-21,25). The following interpretations are being made:

- Compilation of instructional materials – the compilation of the materials that is inherently done before generating the specific materials that would be delivered to the user
- Generation of the learning content – the generation of the specific materials that would be delivered to the user
- Delivering instruction materials – delivering the instructional materials to the user

6. In regards to claim 6, said performance metrics data is accessible (through the database Par. 0129) by resources synchronization tool in substantially real time.

7. In regards to claims 7, 23-34, Gupta teaches an electronic interface for allocating the utilization of constrained learning resources subject to relevant instructor and student availabilities (Par. 0090, 0091, 00130, 0134)

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8. Papadopoulos as modified by Gupta did not specifically teach the performance metrics defined according to the identified business goals and strategies of the organization as disclosed in claims 11 and 27. However, defining the performance goals according to the organization's goals and strategies is inherent and well known in the art. After all, it is with the organization's goals and strategies in mind that the metrics are developed in the first place. Nonetheless, if the applicant wishes to contend that this is well known in the art, the applicant should respectfully note the Griffor reference that shows this feature to be old in the art (Griffor Par. 0015).

9. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the references to include performance metrics defined according to the organization's business goals and strategies. The motivation comes from Griffor Par. 0015 where it states that *By focusing all resource allocation and development on achieving the organizational goals of the organization, it provides aligned metrics for measuring the difference between the competencies required by the organization's strategic plans and the skill based resources available in its participants.*

10. In regards to claims 5, 12, 22 and 28, Papadopoulos as modified by Gupta did not specifically show a development ratio in light of costs and man-hours/elapsed time. However, Seetharaman shows this feature to be old in the art (Seetharaman Par. 0037).

11. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the references to include Seetharaman developmental ratio (which is in light of expended costs and man-hours/elapsed time) for budget planning and revision.

12. The motivation comes from Seetharaman Par 0037 where it states *the budget computation allows changes to the budget model mid-year in a single plan.*

13. In regards to claim 13-14,29-30, although they disclose recording the learning cost, Papadopoulos as modified by Gupta did not specifically teach learning costs allocated and billed to appropriate business units. However, Cozens shows this feature to be old in the art (Abstract, Par. 0197).

14. Therefore it would have been obvious to one of ordinary skilled in the art at the time of the invention to combine the references to include learning costs allocated and billed to appropriate business units. The motivation comes from Cozens Abstract where it states that the invention *presents a global solution for large companies to manage a global employee-training program by providing a centralized database, automated fault-tolerant notification, and flexible HTML-based user interfaces.*

15. In regards to claims 14 and 30 applicant should respectfully note that establishing a cost schedule in which tasks performed are broken down by charges is inherent in providing a learning system cost. For this is how cost are calculated, as in the total charges for each work done is tallied up and total cost is calculated.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the



responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Response to Arguments***

16. Applicant's arguments, see page 12, filed 9/26/06, with respect to claim objection to claims 2-6 have been fully considered and are persuasive. The claim objection to claims 2-6 has been withdrawn.

17. Applicant's arguments, see page 12, filed 9/26/06, with respect to rejection to claims 1-30 under 35 U.S.C. 112, second paragraph, have been fully considered and are persuasive. The 35 U.S.C. 112 rejection has been withdrawn.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Omotosho whose telephone number is (571) 272-3106. The examiner can normally be reached on m-f 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EO

*Ronald Jensen*  
Primary Examiner  
4/30/07